

§ 42.4

29 CFR Subtitle A (7-1-13 Edition)

§ 42.4 Structure of the National Committee.

(a) The National Committee shall consist of the Under Secretary of Labor, the Solicitor of Labor, and the Assistant Secretaries for the Employment Standards Administration (ESA), the Occupational Safety and Health Administration (OSHA), and the Employment and Training Administration (ETA).

(b) The Committee shall be headed by the Under Secretary, who shall assign to one of his/her Special Assistants the responsibility of directing the necessary staff work required by the Committee.

(c) The National Committee shall meet on a quarterly basis to review the Department's responsibilities affecting migrant farmworkers, and at any other time as determined by the Under Secretary to be necessary to carry out the National Committee's responsibilities.

(d) There shall be a National Committee staff level working group consisting of senior staff representatives from the Branch of Farm Labor Law Enforcement, the Wage and Hour Division, the U.S. Employment Service (the National MSFW Monitor Advocate), the Employment and Training Administration, the Office of Field Coordination and the Directorate of Federal Compliance and State Programs in the Occupational Safety and Health Administration, and the Office of the Solicitor.

(e) The Special Assistant to the Under Secretary shall be the director of the staff level working group.

(f) The staff level working group shall meet monthly or more frequently as requested by the director.

(g) The director, or another member of the National Committee, shall attend the annual public meeting of each of the Regional Farm Labor Coordinating Committees.

§ 42.5 Policy review.

(a) The National Committee shall review the policies of OSHA, ESA and the United States Employment Service (USES), and the Office of the Solicitor and shall guide the respective agencies in improving the effectiveness of and coordination among all DOL agencies assigned responsibilities related to mi-

grant farmworkers. These policies and guidance shall include such issues as the following:

(1) The coordination of inspections, including housing inspections, reports and procedures of DOL agencies and State agencies designated by the Department to follow-up on complaints under, and to detect promptly violations of, any of the protective statutes.

(2) The expedited enforcement and legal procedures to accommodate the transient and seasonal nature of migrant farmworker's problems.

(3) The development of systems for prompt and efficient referral to the appropriate federal or State agency of violations or complaints discovered by or reported to DOL agencies or appropriate State agencies, along with prompt and efficient follow-up action by the appropriate agency from the initiation of the investigation through final enforcement action.

(4) The training of all appropriate DOL personnel in order to ensure coordinated and effective enforcement.

(5) The level of enforcement achieved by the remedies or sanctions used by DOL agencies to enforce the protective statutes.

(6) The effectiveness of the Specialists Program and the Regional Farm Labor Coordinated Enforcement Committees.

§ 42.6 Enforcement strategy.

(a) Each Regional Farm Labor Coordinated Enforcement Committee shall annually prepare, on a regional basis, a migrant farm labor enforcement strategy for each protective statute pursuant to § 42.20(c)(3). The National Committee shall review these regional strategies and make recommendations to the appropriate DOL agencies. In reviewing the enforcement strategies, the Committee shall pay particular attention to:

(1) The priorities set for the investigation and enforcement activities of compliance officers.

(2) Available data on the past and current levels of enforcement of the protective statutes in the region, including the data collected pursuant to § 42.21, *infra*.

(3) The level of attention given to directed activity as distinguished from

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complaint-initiated compliance activities.

(4) The capability of the agency to respond quickly and thoroughly under the strategy to emergencies involving violations of any of the protective statutes.

(5) The level of priority given by the Office of the Solicitor to farm labor-related enforcement activities under the respective protective statutes.

(6) The ability of agencies to respond quickly and effectively to resolve complaints.

(7) The extent to which agencies follow through with appropriate remedies and sanctions.

(8) The degree to which agencies coordinate and cooperate on a local and regional level.

(9) Other activities of DOL agencies related to migrant farmworker enforcement.

§ 42.7 Complaint/directed action logs.

(a) To facilitate the Committee's review of all migrant farmworker complaints, including pre and post occupancy housing inspections and the enforcement strategies of DOL agencies, the Committee shall oversee the operation of a system of coordinated Complaint/Directed Action Logs (*logs*). The logs shall be maintained by each DOL agency and appropriate SESA and OSHA State agencies.

(b) The logs shall record both the numbers of compliance actions initiated as a result of complaints and those initiated on the basis of directed activity. They shall also include a statistical record of all original referrals both from and to other DOL agencies or federal or State authorities.

(1) Whenever a complaint is received and/or an investigation is completed by an agency, the appropriate official of that agency shall enter the matter on the log.

(2) Wherever possible, the responsible agency, upon request, shall inform the complainant of the status of the actions pending, and shall inform, when applicable, the referring agency.

(3) ESA, OSHA, USES, and the Office of the Solicitor shall be responsible for preparing the quarterly statistical summary by regions of the respective agency's compliance activity. This

summary shall include all complaints and compliance actions which

(i) Were pursued to completion by the subagency during the reporting period or

(ii) Were received during the reporting period or earlier, and are pending. Each agency also shall report a summary of aging and resource allocation data. The summary shall be submitted to the National Committee and the appropriate Regional Committee.

(c) The National Committee staff shall analyze the statistical summaries and shall recommend National or Regional Committee action where problems or short-comings are identified. Pursuant to this review, the National Committee shall take steps to ensure that the responsible agencies make timely responses to complaints and conduct vigorous enforcement action.

§ 42.8 Coordination plan.

(a) Based upon, among other things, the regional enforcement strategies submitted under § 42.6, the National Committee shall develop an annual coordination plan concerning farm labor-related responsibilities of the Department, including migrant housing inspections, the referral of complaints, enforcement action on violations of federal or State employment-related laws subject to the jurisdiction of DOL, or regulations administered by DOL or appropriate State agencies, and assistance to stranded migrant farmworkers.

(b) The coordination plan shall describe the present program responsibilities of ESA for enforcement in the farm labor area of the Fair Labor Standards Act, and the Farm Labor Contractor Registration Act. The plan shall include a statistical summary of the prior-year complaints under, and alleged violations of, FLSA and FLCRA as recorded in the logs of the ESA Wage and Hour Regional and Area Offices, and shall set forth general goals and objectives for FLSA and FLCRA enforcement activities for the following year as established by ESA.

(c) The coordination plan shall describe the present program responsibilities of OSHA for protecting the safety and health of migrant farmworkers. The plan shall include a statistical summary of prior-year complaints